## REMARKS

This paper is responsive to an Office Action dated December 1, 2004. Prior to this response claims 1-38 were pending. After amending claims 1-3 and 20-22, claims 1-38 remain pending.

Section 1 of the Office Action objects to the title as not descriptive. In response, the title has been amended to read –SYSTEM AND METHOD FOR CONTROLLING MEDIA PLAYOUT--.

In Section 3 of the Office Action, claims 1-38 have been rejected as anticipated under 35 U.S.C. 102(b) with respect to Yano et al. ("Yano"; US 6,701,372). With respect to claims 1 and 20, the Office Action states that Yano describes a server that determines network delivery requirements, and modifies the supply of a media stream in response to determining the network delivery requirements. With respect to claims 2 and 21, the Office Action states that Yano describes a method for determining client buffering capacities. This rejection is traversed as follows.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

At col. 3, ln. 14, through col. 4, ln. 64, Yano describes a receiver terminal 1-2 that sends a receiver report back to a receiver report receiver 1-15 (in the transmitter 1-1) col. 3, ln. 22-24. "Upon reception of the receiver report, the transmitting terminal calculates the volume of data which has been output from the transmitting terminal onto the

network, but has not reached the receiving terminal (step s204). This data volume will be referred to as a *network buffer data volume* (emphasis added) hereafter." col. 4, ln. 13-18. Alternately stated, Yano's network buffer data is the data in the network 1-3, between the transmitter 1-1 and the receiver 1-2. This network buffer data is data that has not yet been received (or buffered) by Yano's receiver. Yano does not describe any analysis of the buffering capacity in the receiver itself, once the data has actually been received.
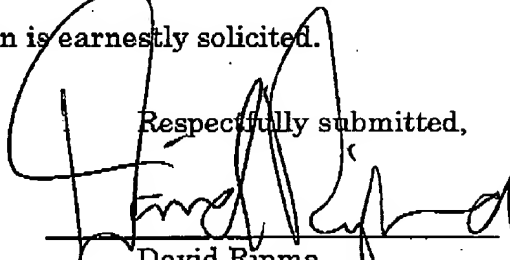
To clarify the distinctions between the claimed invention and Yano, claims 1 and 20 have been amended to recite that the determination of the network delivery requirements requires a determination of a client's buffering capacity. While Yano may determine a transfer rate based upon network delays, this determination is made without any consideration of the buffering limitations of the receiving equipment. Since Yano does not determine a media transfer rate through the determination of the client/receiver buffering capacity, he does not teach all the elements of claims 1 and 20 (as amended). Since Yano does not teach all the elements of claims 1 and 20, he cannot anticipate. Claims 2-19, dependent from claim 1, and claims 21-38, dependent from claim 20, enjoy the same distinctions from the cited prior art and the Applicant respectfully requests that the rejections be removed.

It is believed that the application is in condition for allowance and reconsideration is earnestly solicited.

Respectfully submitted,

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